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Central Administrative Tribunal  
Principal Bench  
New Delhi  
...

O.A. No. 879/91

New Delhi, this the 26th day of May, 1995.

Hon'ble Shri J.P. Sharma, Member(J)  
Hon'ble Shri B.K. Singh, Member(A)

Pratap Singh s/o Shri Dalip Singh  
resident of Village Kutub Garh,  
P.O. Kutub Garh,  
Delhi-39.

.. Applicant

(by Shri A.S.Grewal, Advocate)

Versus

1. Commissioner of Police Delhi,  
Delhi Police Headquarters, M.S.O.  
Building, I.P. Estate, New Delhi.
2. Additional Commissioner of Police,  
New Delhi Range, New Delhi,  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi.
3. Deputy Commissioner of Police,  
North-East District, Delhi,  
Vishwas Nagar,  
Delhi.

.. .. .. Respondents

(By Shri O.N.Trishal, Advocate)

Judgement(Oral)

by Hon'ble Shri J.P. Sharma, Member(J)

The applicant aggrieved by an order dated 15.5.89

Passed by the disciplinary authority imposing the penalty  
of forfeiture of one year approved service permanently  
entailing proportionate reduction in the pay and further

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order dated 6.10.1989 whereby the punishment of period of suspension from 22.2.1989 to 23.5.1989 was treated as period not spent on duty/<sup>and</sup> the order of the appellate authority dated 2.3.1990 upholding the above punishment, has filed this application and prayed for the reliefs that the punishment in question be quashed and the applicant be exonerated in the aforesaid departmental disciplinary enquiry.

The respondents contested this application by filing the reply stating therein that the applicant was on duty on the night intervening 16/17-2-1988 at Picket at Shrestha Vihar Bridge. Shri Qamar Ahmed the then D.C.P. checked the night patrolling in the area of PS Vivek Vihar. When he checked the picket at Shrestha Vihar Bridge, he found that the applicant was sleeping inside the booth. The applicant was in sound sleep inasmuch as he was not awoken by the siren of the approaching police van. Moreover, the applicant did not realize, having a sound sleep, that a 'Hand Held Wireless Set' given to him for duty had been removed by the said D.P.C. from his hand. The aforesaid wireless set was later on handed over to the S.H.O./Vivek Vihar in the weekly crime review meeting on 17.2.1988.

A regular disciplinary enquiry was ordered after serving the summary of allegations and Shri H.P.S. Singh, S.H.O. was appointed as Enquiry Officer who submitted his finding holding the applicant guilty of the charge. Disciplinary authority, agreeing with the findings of the enquiry officer, issued a show cause notice with proposed punishment of forfeiture of one year's approved service permanently which was upheld by the appellate authority that the order passed is according to the departmental disciplinary rules where the applicant has been given due opportunity. It is stated that the applicant was found sleeping and the wireless set was in the hands of the applicant.

The applicant has also filed the rejoinder denying various facts stated in the counter and it is stated that the wireless was issued to the Head Constable on duty Sh. Ajay Pal Singh while the applicant was issued the Rifle and cartridge. Both the Rifle with cartridge and the wireless set could not be issued to the applicant and this fact is admitted by the prosecution witness P.W.2 Sh. Bhatta Ram.

We have heard Shri A.S. Grewal counsel for the applicant

and Shri O.N.Trishal counsel for the respondents.

It is not disputed by the applicant that he was posted at the Shrestha Vihar Bridge Picket. It is also not disputed that Qamar Ahmed, D.C.P. checked the Picket of Shrestha Vihar Bridge when he was on patrolling duty in P.S. Vivek Vihar. It is also not disputed that wireless set was taken away by Shri Qamar Ahmed, D.C.P. from the check-post. The only argument advanced before us is that since wireless set was not issued to the applicant so the applicant cannot be held responsible for that if the same has been removed from the said check-post. Here the question is not of the lost of a particular item. Here the question is that a particular thing was in the check-post and it was in the hands of the delinquent and it was taken away by the D.C.P. while on patrolling duty and the applicant being in sound sleep could not check the same. These facts are not denied in the proceedings of the enquiry. No defence has been given.

In view of this, we find that the conclusion drawn by the Enquiry Officer and the order passed by the disciplinary authority as well as appellate authority

cannot be interfered with. They are basically supported

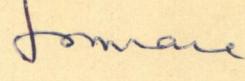
by certain circumstantial evidence and by certain facts which almost accepted by the applicant. The learned counsel for the applicant also stated that the punishment is severe inasmuch as the period under suspension was also not treated as period spent on duty.

The applicant counsel has referred to an authority decided by this Tribunal of O.A. No. 1809/91 decided on 22.7.1993 in the case of Mange Ram V/s. Union of India. We have read the judgement supplied by the learned counsel alongwith the applicant, a copy of which was given at the time of hearing the arguments. The punishment in that case was of forfeiture of entire service of the petitioner of that case permanently of A.S.I. and pay was reduced to initial stage i.e. Rs. 1320/- per month and that too for a period of three years. It goes to show that he was reduced to the initial stage of pay i.e. Rs. 1320/- per month and that pay to continue for a period of three years also and further increments were/stopped. That is not the position here. So, the authority relied upon by the learned counsel does not apply in the present case.

In view of the facts and circumstances, we find no merit in the application and the same is dismissed

leaving the parties to bear their own costs.

  
( B.K. SINGH )  
MEMBER(A)

  
( J.P. SHARMA )  
MEMBER(J)

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